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42-WP-4798-2015

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

42 WRIT PETITION NO. 4798 OF 2015

Aminabi Mohammad Nawaj Burhan

VERSUS

Shaikh Sultan Mahammad Nawaj Burhan

...

Dr. R. R. Deshpande h/f Adv. P. R. Deshpande, Advocate for the
Petitioner.

Mr. P. R. Katneshwarkar, Senior Advocate h/f Mr. Ganesh Sukale a/w Mr.
Anuj Fulfagar, Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 17th APRIL 2025

PC :-

1. This writ petition is filed against the order of recording compromise in the suit before the Lok Adalat. It is alleged that the signature of the petitioner was obtained by misrepresentation.
2. Be that as it may, the learned Advocate for the petitioner produces on record the judgment passed by the Hon'ble Apex Court in Civil Appeal No.14328 of 2024 dated 12th December 2024. The Hon'ble Apex Court in the said judgment has held that, no remedy of filing appeal is available when challenge is to the compromise decree. The only course available to the aggrieved party is to approach the same Court which

recorded the compromise under proviso to Order 23 Rule 3 of the Code of Civil Procedure. He thus thus, submits that in that view, the petition be transferred to the concerned Court where the compromise decree is recorded.

3. So far as the proposition is concerned, the learned Senior Advocate appearing for respondent fairly submits that the remedy available to the aggrieved party is to approach the same Court. However, he submits that the writ petition need not be transferred for the said purpose. The proper course is to withdraw the writ petition and to file appropriate proceeding before the appropriate Court.

4. In view of the above, this Court permits the petitioner to withdraw the writ petition with liberty to file appropriate proceeding before the same court.

5. Writ Petition stands disposed off as withdrawn.

6. Needless to say that the time consumed in prosecuting this writ petition shall be excluded while calculating the period of limitation.

[KISHORE C. SANT, J.]